GOVERNMENT OF KERALA

Labour & Housing (A) Department

NOTIFICATION

G. O. (Rt) No. 1365|79|L&H. *Dated, Trivandrum, 26th September* 1979.

The award of the Industrial Tribunal, Calicut in respect of the dispute between the Management of I. S. Press, Banerji Road, Ernakulam and their workmen represented by the Ernakulam Press Employees Union, Thrippunithura Road, Cochin-19, received by Government on 18-9-1979 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

P. M. SREEVASUDEVA MENON,

Deputy Secretary to Government.

BEFORE THE COURT OF THE INDUSTRIAL TRIBUNAL, CALICUT.

(Friday, the 31st day of August, Nineteen hundred and Seventy-nine)

Present

SHRI R. K. VENU NAYAR, B.A., B.L.,

Industrial Tribunal, Calicut.

INDUSTRIAL DISPUTE No. 24|78.

Between

THE MANAGER,

I. S. Press, Banerji Road, Ernakulam.

And

THE SECRETARY,

Ernakulam Press Employees Union, Thripunithura Road, Cochin-19.

AWARD

This is an industrial dispute referred to this Tribunal for adjudication by Government of Kerala as per Order No. G. O. (Rt) No. 1029|78|L&H. dated, Trivandrum, 21-6-1978. The issues referred are the following:—

(1) Bonus for the year 1976.
(2) Wage increase at 25%.

(3) Increase in D. A. at the rate of 20 Ps.
(4) Supply of two sets of working uniform.
(5) Washing allowance at Rs. 15 p. m.
(6) Travelling allowance at Rs. 15 p. m.
(7) Education allowance to the children of workmen at Rs. 100 per head.
(8) Weightage for every 10 year of service.
(9) Special allowance to Foreman, Assistant Foreman, Composing Section, Chargeman at the rate of Rs. 50 p. m., Rs. 25 and Rs. 25 respectively.
(10) Medical leave for 15 days for every year of service.
(11) City allowance should be introduced.
(12) Special allowance to the Senior Hindi Compositor and Senior Printers at Rs. 25 p. m.
(13) Supply of ½ litre milk to every workmen.

The Union claims in their statement that this is one of the well established printing presses in and around Ernakulam owned by the Arch Dioces of Verapolly. The bonus paid during the year 1976 was only at 10%. They have made enough profits justifying payment at the rate of 20% at least. They are paid very low wages when compared with the employees in similar establishments. The very same management has got another press functioning in the same premises where a newspaper called 'Kerala Times' is published. They get higher wages. Taking these facts into consideration they want 25% increase in wages. During the conciliation proceedings the management offered an increase of Rs. 15 per worker, and this is quite inadequate. In addition to the fixed dearness allowance which they are now getting they want variable dearness allowance at the rate of 20 paise per point above 450 points. Formerly they were paying at the rate of 10 paise per point above 550 and that has been reduced to 65 p. per 5 points above 800. They want two sets of uniforms and washing allowance at the rate of Rs. 15 per month. They also want educational allowance. They want fitment with one weightage for every 10 years of completed year of service. Special allowance should be paid to certain employees like chargemen, and assistant foreman, etc. They want medical leave also at the rate of 15 days per year. City compensatory allowance may be made payable to their employees. Workers should be given milk free of cost which is a benefit enjoyed by similar workers in other factories.

In the counter statement filed by the management they say that they paid bonus in the way it was paid in the previous year and the workers received it without protest.

The union has not at any time raised a dispute regarding this. They do not have the financial capacity to pay more. The trading results also do not justify it. This is an old press and they do not have financial capacity to meet the demands placed by the union on behalf of the 17 workers working there. The loss sustained is usually wiped out by the aid and assistance rendered by the Arch Dioces of Verapolly from time to time. The press from where "Kerala Times" is published is a different entity which has nothing to do with the management and this press. The wages prevalent in other presses referred by the union cannot be compared with this because they are all bigger

and better presses with more capital, work and resources. So regarding all the demands involving financial commitment the reply of the management is that they do not have the capacity to meet these demands. They are paying dearness allowance on the basis of the Minimum Wages Notification issued by the Government and they cannot pay more than this. Similarly they say about the demand for weightage, special allowance, milk, washing allowance, medical leave, etc. A rejoinder has been filed by the union negativing these contentions.

The first witness is the general secretary of the Non-Journalist staff union of the 'Kerala Times'. He proves the statement showing the wage rates prevalent in 'Kerala Times'. According to him the workers in I. S. Press are getting lower wages. In cross he admits that in Kerala Times wages are paid on the basis of the recommendations made under Workings Journalists (Conditions of service) Act. He admits that the press in which he is working is owned by a 'Cultural Society'.

WW2 has been an employee of this press for the last 28 years and he is the secretary of the press Employees Union. 'Kerala Times' is published from Nirmala Press owned by the Management. Both are in the same building. In that press they are getting better wages. He proves the wages given in Anand Press and S. T. Reddiar & Sons. Statement showing wages prevalent there are proved by him. They pay higher bonus also. According to him the management has paid an additional increase of Rs. 15 in the wages of 4 employees who are not members of this union. He refers to other sources of income for this press which is not work allied to printing work. He adds that this management has the capacity to pay increased wages for which demand has been raised by the union. He was cross-examined and he gathered this information contained in the statement produced by him from the workers and other responsible persons which managed the other presses. They raised the demand for bonus for 1976 along with the revision for wages. The management unilaterally decided to give this increase of Rs. 15. There was no discussion before the labour authorities about this. To his knowledge in all other presses workers are getting better wages. MW1 is the manager of the press. He proves the Ledger, profit and loss account, etc. According to him the other comparable presses are Little Flower Press, Mar Luiz Memorial Press etc. The statements showing the wage rates prevalent therein are also marked. This press cannot be compared with Anand Press or S. T. Reddiar & Sons. At the time of discussions the unions said that they should be given increase of Rs. 20 and the management agreed to give Rs. 15 from 1978 January. 4 Employees agreed to this and they began to give this from 1978 January, only to those workers who were willing to accept the same. They do not have the capacity to pay that is being asked for. They have a system of internal auditing and nobody from outside audit their accounts. I. S. Press and Nirmala Press in Ernakulam are situated in the same building and are owned by the same Diocese but they are managed by different entities. This is the gist of the evidence recorded in this case.

Issue No. I. **Bonus for the year, 1976.**

WW2 admits that the workers have received bonus at the rate of 10%. They demand 20%. The management has produced the Balance sheet and profit and loss account for the year 1976-77. That is marked as Ext. M3 and M4. This is not an audited balance sheet or profit and loss account. As per the profit and loss account the net loss is shown at Rs. 21,142.76. From the evidence available it is seen that this is a press run by a Diocese. From Ext. M3 it is seen that their main source of income is from institutions owned or managed by the Diocese. The bulk of the printing charges, i. e., Rs. 51,543 is seen to have been received from their own institutions. From the very statement it is seen that they have a Bank deposit of Rs. 62,133. The loan is only an amount of Rs. 13,200 from the palace. These details are gathered from Ext. M3 statement.

From the particulars furnished in Ext. M3 and M4 it is found that the data necessary for arriving at the allocable surplus cannot be arrived at. The investment on machinery or building is not available and so there is no question of arriving at the depreciation. There is no suggestion about the capital invested and so no amount can be set apart as interest on the capital utilised. In Ext. M4 which is described as profit and loss account they have shown a net loss of Rs. 27,172.46. From Ext. M3 it is seen that they have raised a loan of Rs. 13,400 from the Palace and at the same time there is a Bank deposit of Rs. 62,133. In the profit and loss account, Ext. M4, they have shown the total salary and other benefits paid at Rs. 72,321 and another amount of Rs. 11,840.20 paid as E. S. I. and provident fund dues. The workers have produced Ext. W4 a statement showing the wages including D. A. payable during April, 1977. I have roughly calculated and it is seen that the salary shown in the profit and loss account is much more than what was due to be paid to those workers in 1976-77. The main difficulty is that these accounts are not prepared in accordance with the known commercial methods. So the usual data are not available. On an analysis of the data available it is seen that they have actually made profits and their bank balance also reveals this. So they have got the capacity to pay more. The next question is whether there is gap in the wages received and the cost of living. Wages is on a lower level and so there is justification on that ground also. Hence the management is to pay the maximum bonus of 20% to all their workers for the year 1976. They have paid 10% and they have to pay the balance also.

Issue Nos. 2 and 3.

The demand of the workers is for an increase of 25% in their existing wages. The issue itself is clear about this. The employer would say that they do not have the capacity to pay this and further they say that comparable presses in the region are paying wages either on a par with this or at a lower level. What are the criteria to be considered in revising the wages have been laid down in a number of decisions by the Supreme Court and one which explains all the details is reported at 1975 (II) L. L. J. Page 53. The important cardinal principles laid down therein emphatically say that the capacity,

comparative wage rates prevalent in the area, the carry home wages of an employee, the effect of any revision in this particular establishment in relation to others and a few others have to be considered before an attempt is made to revise wages.

What is the wage rate prevalent in this establishment. The workers have produced a statement showing the same. That is marked as Ext. W4. I do not find any time-scale for the employees. The consolidated basic pay is given. The maximum is Rs. 195 and the minimum is Rs. 160. 7 persons are drawing the maximum of Rs. 195. Another batch of 7 persons are getting Rs. 160 and the other two are paid Rs. 160 per month. In addition to this as on April, 1977 they are getting a D. A. of Rs. 80-30. The management has not disputed the correctness of these figures. Neither party has made an attempt to produce the latest figures. So I accept this. Then there is the wage rates prevalent in comparable industries. For this the capital structure of this establishment, the working capital available with them, the bulk of work etc., are necessary. Unfortunately these details are not available. The Union would say that this is comparable with S. T. Reddiar & Sons, Anand Press, etc. From the general information available, I can only say that S. T. Reddiar is in no way comparable with this unit. Regarding Anand Press I do not have materials sufficient to say that this is comparable with it.

The Union then refers to the case of Nirmala Press functioning in the same premises managed by the same management. The employer disputes the correctness of the second proposition. According to them Nirmala Press from where they are publishing Kerala Times is managed by a Cultural Society of which an advocate is the president. In this connection the union refers to Ext. W5, a Directory of Arch Diocese of Verapolly for the year 1978. At page 330 of this publication, of various institutions, some presses are also included. I. S. Press is No. I of that list which is publishing the Verapolly Arch Diocese Gazette. No. 2 in the list is Nirmala Press which is publishing Kerala Times Daily and Sathyanadam. Though there may be a cultural society for some purpose the fact that Nirmala Press is owned by this employer is borne out by this publication. The wage rates prevalent therein are given in Ext. W1 series. There are in all 40 employees and the total salary ranges between Rs. 232.50 to Rs. 727. Their simple statement that it varies between these two figures do not give a correct picture. In all there are 40 employees. Compositors in I. S. Press who have put in about 20 to 30 years service, who are getting a basic salary of Rs. 195 plus Rs. 80 whereas the persons in the same category are getting between Rs. 400 and Rs. 500, in Nirmala Press the employer would say that it being an establishment covered under the Working Journalists (Conditions of Service) Act the management is bound to pay wages according to the Wage Board Recommendations. That is a fact. The management refers to the wage rates prevalent in Mar Luis Memorial Press. The statement is marked as Ext. M7. Their basic is similar to the basic pay paid in this establishment. It is found that there is yearly increment; but the scales are not given. Ext. M8 shows the wages paid in Little Flower Press. Here also basic

wages are almost the same; but there is provision for payment of increment Here also the wage scales are not given. These details show that there are presses in and around this where they are paying better wages. There are also similar presses wherein they are paying wages on a similar pattern.

The next is the capacity of the management. For this they have produced their account books and also the profit and loss account for the years 1976-'77 and 1977-'78. Exts. M3 to M6 are these documents. Ext. M5 is the statement of income and expenditure for the year 1977-'78. This is not an audited account.

Ext. M5 is described as Income and Expenditure statement. The total salary paid is shown as Rs. 52,356.00. Profit and loss account for the same year is marked as Ext. M6, and there they have shown under the head of salary and other benefits a sum of Rs. 63,651.84. This is in addition to Rs. 10,829.30, paid as E. S. I. and Provident Fund. Why this discrepancy under one head is not explained by anybody. They have shown a net loss of Rs. 7810.85. I do not know how they have arrived at this figure. The printing charges received as per Ext. M5 under 4 heads,—the receipt of money by way of printing charges, binding charges, block making charges shown under 8 different heads in Ext. M5 comes at Rs. 1,01,381.90 whereas in Ext. M6 printing charges alone is shown as 1,01,057.15. In addition to this they have realised an amount of Rs. 7,405.00 as block making charges. I am pointing out this only to show that there are mistakes in these statements, which have probably arisen because they have not been prepared or scrutinised by an auditer. What is the method of calculating the printing charges is also not clear. It is a press owned by a Diocese. Their work mainly is also work connected with Diocese. Naturally the cost of production or costing may not be in accordance with the usual commercial practices. This may tilt the balance one way or other. The palace is advancing loans as and when necessary. How much of that amount is treated as subsidy is also not clear. But figures furnished show that they are having enough work and they are realising huge amounts as printing charges. They are not actually printing and selling the books. Most of their income is by printing charges. In addition to this they are also printing and selling religious books. Tho receipts is shown separately. This would show that this is a prosperous concern. The wage rates prevalent are low and probably realising that the management has given an increase of Rs. 15.00 to the workers. It was an offer accepted by a few. The workers would say that this was given only to those who agreed to sever their connection with the union. Without commenting on it I am only saying that the management also at one stage realised that some increase is necessary and they gave it. Taking all these facts into consideration I find that a case is made out for increasing the wages prevalent in the establishment. The demand as seen from the reference order is for an increase of 25% in the existing wages. In view of the low wage rates prevalent it is ordered that the management shall give 20% increase in the basic wages. This is to be given effect to from 1-6-1978. This is a case where the union does not say that there is any wage scales prevalent. The demand

as seen from issues for adjudication is only demand for 25% increase in the wages. In view of this no wage scales are introduced because that will only upset the system, though unscientific it is prevalent there.

Issue No. 3. There is a demand for increase in D. A. In view of the increase in the salary the existing system of D. A. is not disturbed.

Issue No. 4. The demand is for two sets of working uniforms. The nature of work in a printing press is such that the uniforms supplied will get soiled and for having a regular clean dress the worker must have atleast two sets. So the management shall give two sets of working uniforms every year.

Issue No. 5. The demand is for Rs. 15.00 per month, as washing allowance. For this the management shall pay Rs. 5.00 per month.

Issue No. 6. Travelling allowance is demanded at the rate of Rs. 15.00 per month. The workers have not set up a case that they are coming from far of places and I do not find any other press giving such a benefit. So the employees are not entitled to get such a benefit.

Issue No. 7. Educational allowance to the children is the demand. They want at the rate for Rs. 100 per month. I do not think that any other press is giving such a benefit. Hence they are not entitled.

Issue No. 8. Weightage for every 10 year of service. A case for weightage is not made out by them.

Issue No. 9. Special allowance to foreman, etc.

Issue No. 10. Medical leave for 15 days.

This again is a demand which could very well be favourably considered if only the union had succeeded in pointing out that presses in and around this are paying this. So I am not inclined to give this benefit. For the same reason the medical leave asked for is not allowed. The existing system will continue.

Issue No. 11. City allowance claimed under this issue is also disallowed for the above reason.

Issue No. 12. Under issue No. 12 they say that special allowance should be given to Senior Hindi Compositor and Senior printers and they want this to be at the rate of Rs. 25 per month. There is no oral evidence for this to warrant a conclusion that this is necessary for the interest of justice. So this also is rejected.

Issue No. 13. Under issue No. 13 they say that all the workmen should be given ½ litre milk every day. There is no case made out for this. So this is rejected.

I pass this award as stated above.

R. K. VENU NAYAR,

Industrial Tribunal, Calicut.

APPENDIX IN I. D. 24|78.

Witness examined on the side of the Union

WW1. C. V. Peter.

WW2. P. N. Peter.

Exts. marked on the side of the Union.

W1. Series (3 in No.) Comparative statement of Pay & D. A.

W2. Pay scale statement of Anand Press.

W3. Pay scale statement of S. T. Reddiar Press.

W4. Comparative statement of Pay and D.A.

W5. Directory 1978

W6. Lable of Mass wine.

W7. Letter dated 22-10-1977 from the Manager in charge, Kerala Times.

Witness examined on the side of the Management.

MW1. Fr. George Elanjikal.

Exts. marked on the side of the Management.

M1. Settlement dated 24-7-1976.

M2. Registers (6 in No.).

M3. Statement for the year 1976-'77 of I. S. Press

M4. Profit and loss Account for the year 1976-77 of I. S. Press.

M5. Statement for income & expenditure 1977-78.

M6. Profit and Loss Account for the year 1977-78.

M7. List regarding Basic pay and D.A. for the month of June 1979.

M8. One statement signed by the Manager, Little Flower Industries.